



**Ontario Restaurant, Hotel and Motel Association
Board of Directors Meeting**

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Speaking Notes:

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Check against delivery

Introduction

- Thank you for inviting me to join you today, to talk about the work we do in human rights, and specifically about dress codes.
- Before I continue, I wish to acknowledge that we are on the traditional territory of the Anishinaabe Peoples, and that Toronto is a sacred gathering place of the many Indigenous peoples of Turtle Island.
- I also wish to recognize the long history of First Nations and Métis Peoples in Ontario, and show respect today to the Mississaugas of New Credit.
- I wanted to start by talking about the Ontario *Human Rights Code* and the work of the Ontario Human Rights Commission.
- The Ontario *Human Rights Code* is the law that provides for equal opportunities and the right to be free from discrimination based on 17 personal characteristics – called grounds, in five different parts of society – called social areas.
- These social areas include employment and services. As hotels, motels, and restaurants, you have legal requirements to comply with the *Code* both as employers and as providers of services. And every facet of your operation that is covered by provincial law is governed by the *Code*.
- The *Code* is considered “quasi-constitutional” legislation, which means that in almost all cases, it takes precedence over other Ontario laws and regulations.

What the OHRC does

- Reading the *Code* tells organizations that they must not discriminate, but it doesn't give specific information on how organizations can comply.
- One of our many roles at the Ontario Human Rights Commission is to provide some of the tools and training you will need to do this.
- Our focus is on identifying, eliminating and preventing discrimination based on *Code* grounds, such as sex, disability, sexual orientation, gender identity, and several grounds relating to race.
- Our work involves looking at systemic issues or the “big-picture,” getting at the root causes of discrimination, and looking at systemic solutions.

- We have many tools to do this, such as intervening in courts and tribunals, taking our own cases to the Human Rights Tribunal of Ontario, issuing policies that help organizations comply with the Code, and providing all kinds of outreach and education.
- We also have the legal authority to conduct public interest inquiries, when we think an issue may have broad systemic impact.
- An example is the inquiry we are working on about sexualized dress codes in Ontario restaurants and bars.

Dress code statement

- How did the OHRC become involved in speaking out about dress codes? Last year, CBC reports began to surface about female employees who were required to wear tight short dresses to work as restaurant servers. The OHRC has had a long-standing position about dress codes.
- This heightened attention gave us the chance to speak out strongly and educate the public about how these types of dress codes, in all industries, may be discriminatory.
- Expectations for female staff to dress in sexualized or gender-specific ways persist and are normalized in some sectors, such as the restaurant and bar industry. They may be an extension of using women's appearance to attract customers, and may be seen as a standard business practice.
- This is despite the fact that human rights decisions going back to the 1980s have found that dress requirements violate human rights laws when they create an adverse impact based on sex.
- On International Women's Day, we issued a policy position on sexualized and gender-specific dress codes, and called for employers to review their dress codes and eliminate discriminatory requirements.
- The OHRC has always been clear that employers are entitled to have dress codes in their workplaces, as long as they do not discriminate. Employers have told us that dress codes are important, because they promote the brand of the establishment. They also promote a professional and polished look, and in some cases, meet health and safety requirements.

- But sexualized or gender-specific dress codes – such as requiring female employees to wear high heels, short skirts, tight clothing, make-up or low cut tops – reinforce stereotypical and sexist notions about how women should look.
- Any sex-based differences in the dress code have to be legitimately linked to the requirements of the job. Where this cannot be shown, these dress codes will be discriminatory.
- When we launched our policy position in March, it received a great deal of interest, from media, restaurants and members of the public. Many people came forward and told their stories, to us or the media, about what they were required to wear at work.
- We heard reports about women having to wear high-heeled shoes to work despite these causing physical pain and injury. We heard concerns that some female employees are expected to wear make-up and jewelry as part of their job, which was not expected of male employees.
- One African Canadian woman came forward and reported she was sent home because she tied her hair back instead of wearing it down.
- And unbelievably, we heard reports that a few restaurants pressured female employees to wear or not wear certain underwear to comply with the dress code. All of these examples raise human rights concerns.
- What's more, we heard that many customers and restaurant owners are uncomfortable with this trend in the restaurant industry.
- Finally, we heard that many people are concerned about the discriminatory impact these dress codes have on female staff. Because of concerns about dress codes, some customers are choosing to spend their money elsewhere.
- In fact, a change.org petition to remove sexist dress codes has gathered over 30,000 signatures.
- To comply with the *Code*, employers must make sure that their dress codes don't reinforce sexist stereotypes or discriminate.
- Sexualized dress codes send the message that an employee's worth is tied to how they look. These are an unfortunate example of how for many women, sex discrimination is still a daily barrier.

- It's not just written dress code policies that can discriminate. Verbal pressure by individual managers on employees to dress in a gender-specific way can also violate the *Code*. These dress codes also contribute to discriminatory work environments and can exclude people not just based on sex, but also gender identity, gender expression, race, disability and creed.

Impacts

- When we released our statement, some members of the public questioned why we would be focusing on what seemed to be a “minor” issue. But the impacts of these dress codes are very real.
- Discriminatory dress codes infringe dignity and prevent women from achieving equal opportunity at work. They also may make employees more vulnerable to sexual harassment from other staff, customers and management.
- Sexual harassment and sex discrimination in the restaurant industry are prevalent.
- In fact, research indicates that sex discrimination and sexual harassment happen so often that they are often seen as just “part of the job.” Managers, customers and even staff may normalize the behaviour and minimize its effects.
- One U.S. survey of 688 current and former restaurant workers found that 60% of women and trans people and 46% of men reported that sexual harassment was an “uncomfortable aspect of work life.” The same study found that sexual harassment was higher in restaurants that required men and women to wear different uniforms.
- There are also economic factors that contribute to these negative effects. Women are more likely than men to hold low-wage and part-time jobs. This may contribute to making them more vulnerable to being exposed to unwanted sexual advances and other forms of sexual harassment.
- Relying on tips may also increase the likelihood of sexual harassment. To attract customers and earn tips, female employees report being expected to put up with inappropriate sexual behaviour from customers. These economic factors can also make it harder for employees to complain about the behaviour and get help.
- This discrimination is very harmful to women, especially if it is a key part of a young woman's introduction to the working world. Restaurants Canada states that 22% of Canadians have their first job in a restaurant or food service business.

- More than one-third of food and beverage servers in Ontario are women between the ages of 15 and 24, and many are working in their first job.
- Research says that women may come to expect and tolerate sexual harassment in future jobs based on a negative first experience.
- In fact, these kinds of dress requirements can contribute a negative environment for all workers, where sexualized comments and unwanted sexual conduct become a regular part of people's day-to-day work.

The inquiry

- Along with issuing our policy statement, which is available on our website, we began a public inquiry into sexualized dress codes in restaurants across Ontario.
- We wrote to 14 restaurant companies, all in the casual or family dining sector. These 14 companies represent more than 40 chain brands and hundreds of restaurants and bars.
- We asked each company to review its existing policies and amend them as needed, and to take 10 steps to ensure they complied with the *Human Rights Code* and Commission policy.
- These steps included:
 - Allowing for a range of dress/uniform options, for all staff in all front-of-house positions
 - Not requiring any staff to wear sexualized, revealing or gender-stereotypical clothing
 - Ensuring that all staff can choose from clothing options, including pants, that are comparable in terms of style, comfort, practicality and coverage, regardless of sex or gender
- We called on each company to send us a copy of their dress codes, and to commit to having new or amended policies in place by December 1.
- We will report publicly on the results of the inquiry, and what further steps we will take, once we've had the chance to review and analyze the final responses, in late winter or early next spring.

Preliminary information

- So far, we have received responses from all but one of the companies. We're currently having discussions with organizations about questions they have, and are giving them feedback on the information they've provided.
- Today, I can give you a preliminary idea of some of the responses to the inquiry.
- First, all organizations committed to comply with the Commission's dress code policy statement by meeting the 10 measures by or before December 1, 2016.
- Many advised us that they have already made changes in response to concerns raised in the media or by the Commission.
- A few provided copies of their recently amended policies, which they felt already complied with our requirements.
- We're seeing organizations taking their roles as leaders seriously, as several have already taken the initiative to revisit and refine their dress codes.
- One theme we've noted from the information we've received so far, is that it is common for companies to have separate requirements for female and male employees.
- In many cases, blending these into just one non-gendered set of requirements could be a big step towards avoiding potential discrimination and stereotypes.
- We have already produced resources to help restaurants, and we plan on giving more guidance on this issue.

Conclusion

- One of the key parts of creating awareness about human rights obligations around dress codes is to get the message out to the companies and people who put these requirements in place.
- We can't do this alone, and we rely on the partnership and support of leaders in the hospitality industry to share our message.
- The Ontario Restaurant, Hotel and Motel Association has been one such leader.

- By adding materials to your website and communicating about dress code issues to your members, and by continuing the discussion with us today, you are helping us to reach the audience we are looking to connect with.
- So I thank you for playing the role of connector, supporter, and partner in our work to advance the human rights of your employees.